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Washington, D.C. 20231

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MAILED

AUG 28 2002

Merck and Co. Inc.
P. O. Box 2000
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LICENSING & REVIEW

In re Application of:
Fang Chen:
For Serial No. 10/090,090

DECISION ON
REQUEST FOR
RECONSIDERATION

Filed: March 4, 2002

For: **DNA MOLECULES ENCODING HUMAN NUCLEAR RECEPTOR PROTEIN
nNR7-1 (as amended)**

This is a decision on the REQUEST FOR RECONSIDERATION filed July 15, 2002,
responding to the communication (FORM PTOL-456) mailed June 12, 2002.

The request has been **DENIED** to the extent indicated below.

42 U.S.C. 2182 states in part "... useful in the production or utilization of special nuclear material or atomic energy". A review of the application file history reveals among other things the use of a radioactive isotope "³⁵P" as disclosed in at least page 37 of the instant specification. Therefore under the directions from the Department of Energy (DOE) this application has been made available to them under 42 U.S.C. 2182 since the following subject matter relates to at least one of the following:

- G. Materials, apparatus and methods concerning isotope and/or radioactive source technology including those utilizing (including responsive to) radioactive sources in:
- a. Life Sciences such as medicine (diagnostic and therapeutic), ecology, disease and pest control, animal husbandry, etc.
 - b. Industrial processes such as food processing, sterilization, polymer production, etc.
 - c. Investigations of the environment or the earth
- H. Instruments employing a radioactive source and/or radioactivity detector in the operation thereof.

Applicant is reminded that a response is due within forty-five days of the mailing date of the communication (FORM PTOL-456). The communication having been mailed June 12, 2002.


Joanne P. Hodge
Supervisory Legal Instruments Examiner
Licensing and Review
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